

REMARKS

In the Office Action dated December 20, 2005, the Specification was objected to; claims 3-6, 9, 12, 13, 16, 20, and 22-25 were objected to; claims 1, 3-9, 11-13, 15-19, and 21-25 were rejected under 35 U.S.C. § 102 over U.S. Patent No. 5,798,694 (Reber); claim 2 was rejected under § 103 over Reber in view of U.S. Patent Application Publication No. 2004/0100380 (Lindsay); claim 10 was rejected under § 103 over Reber in view of U.S. Patent No. 6,275,779 (Pohle); and claims 14 and 26 were rejected under § 103 over Reber in view of U.S. Patent Application Publication No. 2002/0161545 (Starling).

Applicant acknowledges the indication that claim 20 contains allowable subject matter. Claim 20 has been amended from dependent form to independent form to place the claim in condition for allowance. Claim 20 has been amended to address the objection to form raised in the Office Action.

OBJECTION TO PARAGRAPH NUMBERING

A paragraph number [0000] has been added to the paragraph directly underneath the section "CROSS-REFERENCE TO RELATED APPLICATIONS" to address this objection.

OBJECTION TO SPECIFICATION

With respect to the objection regarding paragraph [0032] on page 11, in which the word “is” is struck through, Applicant has amended this paragraph to remove occurrence of the struck through word “is.” Note that the struck through version of “is” forms part of the original disclosure, and this amendment is being made to remove the occurrence of the struck through version of the word “is”.

The objections to the other portions of the Specification have also been addressed by amending corresponding paragraphs in the Specification.

Appln. Serial No. 10/757,232
Amendment Dated March 20, 2006
Reply to Office Action Mailed December 20, 2005

OBJECTIONS TO THE CLAIMS

The claims have been amended to address the claim objections.

REJECTIONS UNDER 35 U.S.C. § 102 AND 103

Claim 1 has been amended to incorporate part of the subject matter of dependent claim 2 (now cancelled). With respect to dependent claim 2, the Office Action conceded that Reber does not disclose the subject matter recited in claim 2. 12/20/2005 Office Action at 9. However, the Office Action relied upon Lindsay as disclosing the claimed subject matter missing from Reber. Specifically, the Office Action cited to the Abstract of Lindsay, which refers to a method for tracking the freshness or expiration dates of food products put into storage. Note, however, that Lindsay contemplates a very different technique from what is recited in claim 1.

Lindsay uses smart tags in which information pertaining to a freshness date, an expiration date, a date made or prepared, and so forth, are stored into smart tags associated with packaging or containers in which food products are stored. Lindsay, ¶ [0009]. The food product information stored in the smart tags include information entered into the smart tags by a supplier or manufacturer of the food product (Lindsay, ¶ [0034]) or information entered by a consumer (Lindsay, ¶ [0062]). However, the date information in Lindsay does not constitute at least one indicator that is related to a dynamically alterable viability state condition, where the indicator is in the form of a future date that is adjusted based on the analyzing, as recited in claim 1. Rather, the dates specified in the smart tags of Lindsay are static dates provided by a supplier, manufacturer or consumer.

In view of the foregoing, it is respectfully submitted that the hypothetical combination of Reber and Lindsay does not teach or suggest all elements of claim 1. Therefore, claim 1 is non-obvious over Reber and Lindsay.

With respect to amended claim 6 (which was rejected as being anticipated by Reber), Reber does not disclose an analysis device for receiving, for storing, and for analyzing measurement data from the monitoring device and for generating data representative of a current condition of the product and a predicted date regarding one of the viability factors of the product stored within the containment, in combination with a display to display the data representative of the current condition and the predicted date regarding the one viability factor.

With respect to independent claim 7 (which was also rejected as being anticipated by Reber), Reber does not disclose a parameters analysis device for retrieving a selected at least one rule from a data set of rules and to apply the at least one rule to measured parameters from a data

collection device for adjusting a dynamically alterable critical date relating to the product, wherein the dynamically alterable critical date comprises one of a dynamically alterable maturity date and a dynamically alterable expiration date.

Independent claims 11, 22, and 25 are also similarly allowable over Reber.

Dependent claims, including newly added dependent claims 27-35, are allowable for at least the same reasons as corresponding independent claims.

In view of the allowability of base claims, it is respectfully submitted that the obviousness rejections of dependent claims 10 and 14 have also been overcome.

Allowance of all claims is respectfully requested. The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 08-2025 (200401797-1).

Respectfully submitted,

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Dan C. Hu
Registration No. 40,025
TROP, PRUNER & HU, P.C.
8554 Katy Freeway, Suite 100
Houston, TX 77024
Telephone: (713) 468-8880
Facsimile: (713) 468-8883